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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,391	06/28/2001	Michael Epstein	US 010314	6445

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EXAMINER

TRUONG, LAN DAI T

ART UNIT PAPER NUMBER

2143

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/894,391	Applicant(s) EPSTEIN, MICHAEL	
	Examiner lan dai thi truong	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 and 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is response to communications: application, filed 06/28/2001; amendment filed 07/25/2005. Claims 1-13 are pending. Claims 1-3 and 11-13 are canceled. Claims 4-10 are amended by applicant

2. Applicant's argument filed 07/25/2005 has been fully considered, but based on what applicant claims they are moot in view with new ground for rejection

In claim 7, applicant argues that: "...the license storage key of Heshey et al. does not receive a plurality of data items corresponding to a data set, and does not render a selected data item..." The examiner totally disagrees with applicant. In view of the examiner, the license storage must receive "licenses" which is equivalent to "data item" before storing them, this process means "receive a plurality of data items." And the license storage provides "available licenses" which is equivalent to "selected data item" to computers for executing program, this process means "render a selected data item," see (abstract, lines 5-12; column 1, lines 20-27; column 2, lines 1-45; column 3, lines 22-29)

In claim 10, applicant argues that: "...there would be no incentive for combining this feature with Hershey et al. is to provide the request license, to a randomly selected license." The examiner totally disagrees with applicant's argument. Van Zoest is relied upon for the teaching of "randomly selecting," which Hershey does not explicitly teach. Also Van Zoest provides motivation for combining the references.

Claim rejections-35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Hershey et al. (U.S. 4,924,378), herein after referred to as Hershey

In referring to claim 7:

“A processing system comprising:

- “A renderer for receiving a plurality of data items corresponding to a data set, and for producing therefrom a rendering corresponding to a select data item” is matched (abstract, lines 5-12; column 1, lines 20-27; column 2, lines 1-45; column 3, lines 22-29)

Hershey disclose a method for managing computer program license, Hershey taught that license storage key which is equivalent to “renderer,” which holds “licenses” which are equivalent to “plurality of data items.” The available licenses in a storage area may be transfer to a computer for execution a program

- “A verifier, operably coupled to the renderer, for precluding the rendering corresponding to the select data item in dependence upon whether other data

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items of the plurality of data items are available to the renderer” is matched
(column 3, lines 40-64; column 4, lines 25-30; column 5, lines 2-3, 8-11, 19;
column 6, lines 50-67; column 7, lines 1-20)

Beside, Hershey taught that the license storage key has it's own microprocessor which is equivalent to “verifier” which receives request from work station and check the request to determine that there has been no error in the transmission, if a response is not received within the time set by the timer, then the error is returned to the requestor

- A timer, operably coupled to the verifier and renderer, for measuring response times associated with responses to request for the other data items from the render; wherein the verifier precludes the rendering based at least in part on an assessment of the response times” is matched (column 5, lines 27-36)

Hershey disclosed a timer is set in the operating system of the work station to keep track of responses it is waiting for, and based on comparison between response time and the time is set by timer the verifier determines that it is valid request or not, if a response is not received within the time set by timer, the an error is returned to the requestor.

In referring to claim 9:

“The processing system of claim 7, wherein the verifier is configured to form the assessment based on at least one of:

- An average of the response times,
- A comparison of the response times to one or more threshold times, and
- A statistical test based on the response times.” is matched (column 5, lines 27-35)

Hershey disclosed how the system keeps track of responses it is waiting for. He taught that the system compares the response time with the time is “ the threshold time” set by timer to determine if it is valid request or not. So ideally, Hershey’s method meets limitation “The verifier is configured to form the assessment based on a comparison of the response times to one or more threshold times”

Claim rejections-35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 are rejected under 35 U.S.C 103(a) as being un-patentable over Hershey et al. (U.S. 4,924,378) in view of Fischer (U.S. 5,659,617)

In referring to claim 4, which is exemplary with claim 8:

A verifier that is configured to determine an authorization to process protected material, based on one or more responses to one or more requests: (Hershey disclosed a System For Managing Software Licenses by limiting the number of computers permitted to run a program to the number of licenses granted. This system measures which discourage persons from trying to run a program without a license by getting around the check points, if a license is not available,

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the application program will not be able to run. Hershey disclosed microprocessor which is equivalent to "a verifier" verifies communication between License Storage Key and a Work Station. He taught that the microprocessor verifies requests and responses between License Storage Key and a Work Station to determine that a license exists or not: column 5, line 19; column 6, lines 50-53, 65-68; column 7, lines 11-21; column 3, lines 56-67; column 5, lines 2-3)

A timer that is configured to measure response times associated with the one or more responses to the one or more requests; wherein the verifier is configured to determine the authorization based at least in part on an assessment of the response times: (Hershey disclosed a timer is set when a request is sent out from work station to the License Storage Key to measure the response time for system, and based on the time is set by the timer, if a response is not received within the setting time, then an error is returned to requestor: column 5, lines 27-35)

However, Hershey does not explicitly disclose the response times are correlated to a physical proximity between a first source of the one or more request and a second source of the one or more responses

Fischer discloses a unique location certificates to establish the location of participants in a network, determine the validity of objects which are expected to be present within certain geographic bounds and control the use of security or sensitive devices, see (Fischer: column 1, lines 49-56)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Fischer's ideas of using a unique location certificates to establish the location of participants in a network with Hershey's system in order to control the use of security or sensitive devices, see (Fischer: column 1, lines 49-56)

In referring to claim 5:

A verifier that is configured to determine an authorization to process protected material, based on one or more responses to one or more requests: (Hershey disclosed a System For Managing Software Licenses by limiting the number of computers permitted to run a program to the number of licenses granted. This system measures which discourage persons from trying to run a program without a license by getting around the check points, if a license is not available, the application program will not be able to run. Hershey disclosed microprocessor which is equivalent to "a verifier" verifies communication between License Storage Key and a Work Station. He taught that the microprocessor verifies requests and responses between License Storage Key and a Work Station to determine that a license exists or not: column 5, line19; column 6, lines 50-53, 65-68; column 7, lines 11-21; column 3, lines 56-67; column 5, lines 2-3)

A timer that is configured to measure response times associated with the one or more responses to the one or more requests; wherein the verifier is configured to determine the authorization based at least in part on an assessment of the response times: (Hershey disclosed a timer is set when a request is sent out from work station to the License Storage Key to measure the response time for system, and base on the time is set by the timer, if a response is not received within the setting time, then an error is returned to requestor: column 5, lines 27-35)

However, Hershey does not explicitly disclose wherein the assessment of the response times forms an assessment of whether the one or more responses were communicated via a network connection

Fischer discloses a system for provide reliable location certificate used to prove the geographic location of participants in a network. The system controls the use of security or

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sensitive devices by limiting their operation to certain location if they are too distant or at wrong angular locations: column 1, lines 49-56; column 4, lines 32-36)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Fischer's ideas of providing reliable location certificate used to prove the geographic location of participants in a network with Hershey's system in order to control the use of security or sensitive devices, see (Fischer: column 1, lines 49-56)

In referring to claim 6:

A verifier that is configured to determine an authorization to process protected material, based on one or more responses to one or more requests: (Hershey disclosed a System For Managing Software Licenses by limiting the number of computers permitted to run a program to the number of licenses granted. This system measures which discourage persons from trying to run a program without a license by getting around the check points, if a license is not available, the application program will not be able to run. Hershey disclosed microprocessor which is equivalent to "a verifier" verifies communication between License Storage Key and a Work Station. He taught that the microprocessor verifies requests and responses between License Storage Key and a Work Station to determine that a license exists or not: column 5, line 19; column 6, lines 50-53, 65-68; column 7, lines 11-21; column 3, lines 56-67; column 5, lines 2-3)

A timer that is configured to measure response times associated with the one or more responses to the one or more requests; wherein the verifier is configured to determine the authorization based at least in part on an assessment of the response times: (Hershey disclosed a timer is set when a request is sent out from work station to the License Storage Key to measure

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the response time for system, and base on the time is set by the timer, if a response is not received within the setting time, then an error is returned to requestor: column 5, lines 27-35)

However, Hershey does not explicitly disclose wherein the assessment of the response times forms an assessment of whether the one or more responses were immediately available, or whether the one or more responses were a result determination

Fischer discloses a system for provide reliable location certificate used to prove the geographic location of participants in a network. He discloses the correlation between response time and geographic location of participant, which is used to determine if the participants are valid members in the network or not. The system controls the use of security or sensitive devices by limiting their operation to certain location if they are too distant or at wrong angular locations: column 1, lines 49-56; column 4, lines 32-36; column 8, lines 45-55)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Fischer's ideas of providing reliable location certificate used to prove the geographic location of participants in a network with Hershey's system in order to control the use of security or sensitive devices, see (Fischer: column 1, lines 49-56)

Claim 10 is rejected under 35 U.S.C. 103(a) as being un-patentable over Hershey in view of Zoest et al. (U.S. 6,496,802)

In referring to claim 10:

"The verifier is configured to randomly select the other data items" is not disclosed in Hershey.

However, Zoest disclosed a Verification Server what is equivalent to "verifier" verifies that if the user is authorized to access an electronic work. He taught that the verification server

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may look-up random sample of data related to request and compares this sample data with data extracted from a physical work, base on comparison the Verification Server determines that if the user is authorized to access an electronic work, see (column 5, lines 21-39; column 8, lines 67; column 9, lines 1-4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the verifier of Hershey to provide for random samples of data is taught in Zoest. The combination would have been obvious because one of ordinary skill in the art would have been motivated to verify that the users are authorized to access an electronic copy of the work based on random selection, see (Zoest: column 9, lines 1-4).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to lan dai thi truong whose telephone number is 571-272-7959. The examiner can normally be reached on monday- friday from 8:30am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lan Dai Thi Truong
Examiner
Art Unit 2143

Ldt
10/14/2005



BUNJOD JAROENCHONWANIT
PRIMARY EXAMINER